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ABSTRACT

This document is a short report on issues related to eliminating mandatory retirement ages. H.R. 4154, Congressman Pepper's bill to legislate elimination of mandatory retirement by removing the maximum age limitation of the Age Discrimination in Employment Act of 1967, is included. The report includes the following sections: (1) questions and answers (with descriptions of the mandatory retirement laws, the Age Discrimination in Employment Act, and the intent and economic consequences of H.R. 5154); (2) review of recent events; (3) historical overview of mandatory retirement; (4) states that have eliminated mandatory retirement (with illustrative table); (5) number of workers affected by mandatory retirement; (6) public attitudes about mandatory retirement; (7) the impact of mandatory retirement on the individual; (8) the impact of uncapping the Age Discrimination in Employment Act; and (9) a summary of the issues. (ABL)

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[COMMITTEE PRINT]

ELIMINATING MANDATORY RETIREMENT

A REPORT

BY THE

CHAIRMAN

OF THE

SUBCOMMITTEE ON HEALTH AND LONG-TERM CARE

OF THE

SELECT COMMITTEE ON AGING
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

SECOND SESSION

CG 019228

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ELIMINATING MANDATORY RETIREMENT

QUESTIONS AND ANSWERS

What is mandatory retirement?

Mandatory retirement refers to the forced departure of an employee because that person has attained an age deemed, for whatever reason, to be the cut-off age for employment in that particular job. This age is determined either through statute or through court ruling.

What is the current age of mandatory retirement?

It varies according to the nature of the work, whether or not the profession is protected by the provisions of the Age Discrimination in Employment Act (ADEA), and whether the work is performed in the public or private sector.

Under current law, the ADEA protects private sector workers agaisnt mandatory retirement up to the age of 70. In 1978, mandatory retirement was eliminated altogether for Federal workers.

What percentage of American workers are subject to mandatory retirement laws?

An estimated 51 percent of older workers outside the Federal government face a mandatory retirement age of 70 or more. (As noted above, Federal government workers under the protection of the ADEA have no mandatory retirement age.)

Can you describe more fully the Age Discrimination in Employment Act (ADEA)?

The Age Discrimination in Employment Act, adopted in 1967, prohibits discrimination in employment because of age in such matters as hiring, job retention, compensation, and other terms, conditions or privileges of employment. The ADEA protects workers who are at least 40, but less than 70, years of age from discrimination on the basis of age by most employers of 20 or more persons (including State and local governments), employment agencies, and labor organizations that have 25 or more members. Most Federal employees and applicants who are at least 40 years old are also covered, but without an upper age limit.

The Act specifies that actions otherwise deemed unlawful may be permitted if they are based upon the following considerations:

(1) where age is a bona fide occupational qualification reasonably necessary to normal operations of a particular business;

(2) where differentiation is based on reasonable factors other than age (e.g., the use of physical examinations relating to minimum standards reasonably necessary for specific work to be performed on a job);

(3) to observe the terms of a bona fide seniority system or a bona fide employee benefit plan such as a retirement, pension, or insurance plan, with the qualification that no seniority system or benefit plan may require or permit the involuntary retirement of any individual who is covered by the ADEA; and

(4) where an employee is discharged or disciplined for good cause.

The Equal Employment Opportunity Commission (EEOC) is responsible for the administration and enforcement of the ADEA, except in the Federal sector where the Office of Personnel Management (OPM) is responsible.

What are some of the occupations which lie outside the protection of the ADEA?

Several groups of Federal employees, including foreign service officers, Central Intelligence Agency employees, law enforcement officers and firefighters, and air traffic controllers, do have various specific mandatory retirement ages, set forth in separate laws that remain in effect. In addition, 1978 amendments to the ADEA provided two exceptions with regard to mandatory retirement: certain bona fide executive or high-ranking policy-making employees in private industry may be compulsorily retired at age 65; and, until July 1, 1982, tenured faculty at institutions of higher education could be compulsorily retired at age 65. The 1978 amendments also extended protection against discrimination to U.S. citizens employed by U.S. employers abroad.

Are there other Federal laws which deal with age discrimination?

Yes, there is a separate Age Discrimination Act, P.L. 94-135, as amended, which generally prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

Isn't "retirement" itself a fairly new notion?

"Retirement" is an idea that barely existed in turn-of-the-century America. The average life expectancy in 1900 was 46.3 for men and 48.3 for women, and persons generally continued working until attaining those ages, which startle us today because they are so low.

In 1900, the average American male spent 3% of his lifetime in retirement. In 1980, he spent more than one fifth of his life with that status.

What is the reasoning behind the mandatory retirement age of 70, which currently holds for those private sector employees protected by the ADEA?

Before gaining an understanding of why 70 was selected, we must examine the evolution of the retirement age which preceded it, 65.

It appears this number had its roots in Germany, with the Old Age and Survivors Pension Act which Chancellor Otto Von Bismarck instituted in 1889. This legislation represented the first time a Federal Government in the western world assumed obligation for the financial support of its older citizens and raised the need to define "old age." Bismarck selected 65 at that time. Great Britain passed similar legislation in 1908, initially selecting the age of 70 but later reducing it to 65. Other nations followed Bismarck's lead and the United States followed suit in 1935 with its Social Security system. Today, the normal retirement age as defined by public policy varies greatly by country, as well as by sex and type of work.

The rationale behind Bismarck's selection of age 65 as the start of "old age" seems to have been a most arbitrary one. Actually, in 1889, Bismarck was 74 and was a very active and powerful chancellor of the German Empire.

Concerning the United States' choice of 65 for Social Security eligibility, former Secretary of Health, Education and Welfare Wilbur Cohen, who drafted the 1935 Act, wrote in 1957, "This brief account of how age 65 was selected in the . . . United States indicates that there was no scientific, social, or gerontological basis for the selection. Rather, it may be said that it was the general consensus that 65 was the most acceptable age."

Given increasing lifespans in the United States and the increasing scrutiny which comes with time, American policymakers recently began questioning the age of 65 for retirement. When formulating the 1978 Amendments to the Age Discrimination in Employment Act, 70 was adopted as the mandatory retirement age for most non-Federal workers. It was as arbitrary as age 65 and was chosen as a compromise between those who wished to eliminate mandatory retirement altogether and those who would have preferred a continuance of mandatory retirement at age 65.

How have lifespans changed in the past century?

The life expectancy at birth for Americans has improved dramatically over the last century. People born today have a life expectancy 26 years longer than those born in 1900.

In 1900, the average life expectancy for men and women was 47.3 years. By 1935, the year the Social Security eligibility age of 65 was adopted, that age had risen to 61.7. In 1981, the average life expectancy had reached 74.2. To many, these longer lifespans are an indication that perhaps mandatory retirement is an outmoded concept; many persons do enjoy healthy and productive years even beyond the average lifespans.

What is the status of State law regarding mandatory retirement?

This will be described in detail in a later section of the report. All of the States parallel the Federal government by banning mandatory retirement through age 70 for the State government workforce and local government employees. The laws apply also to private sector workers, but some State laws include exemptions for private sector employees depending on the firm's size. Thirteen States have laws which go beyond the Federal law by prohibiting age discrimination, including mandatory retirement, without an upper age limit. These are California, Florida, Georgia, Hawaii, Iowa, Maine, Massachusetts,

Montana (by court interpretation of age discrimination statute), New Hampshire, New Jersey, New York, Tennessee, and Wisconsin. All but three of these States impose this ban on all employers.

In addition, Alaska, Nevada, New Mexico, North Carolina, North Dakota and Vermont have abolished mandatory retirement contingent upon court interpretation of age discrimination statutes.

What is the intent of Congressman Pepper's bill, H.R. 4154?

H.R. 4154 essentially guarantees that individuals employed in occupations currently covered under the Age Discrimination in Employment Act cannot be fired solely on the basis of age. The Pepper bill would not force anyone to continue working. Rather, it would simply permit those who desire to continue working and are competent enough to keep working to do so.

H.R. 4154 is a "clean bill," retaining all exemptions provided for in the 1978 ADEA Amendments. It does include an appropriate phase-in period for collective bargaining agreements negotiated prior to enactment of the bill. All such agreements negotiated after the enactment of this legislation would have to be in full compliance with its provisions.

If the Pepper bill were adopted, what would be the economic consequences?

This legislation would not cost the Government a penny. Instead, it is expected to contribute to the economic well-being of the nation. H.R. 4154 would generate an estimated $3 billion in the first year alone, because more than 195,000 older workers who would otherwise be retired would be contributing to their own economic support as well as to the Treasury and Social Security funds. As the Congress, faced with the terms of the Gramm-Rudman-Hollings deficit control act, looks for new revenue sources, it is hoped this bill will provide at least a partial solution.

REVIEW OF RECENT EVENTS

The 99th Congress shows evidence of continuing interest in the issue of older workers, in part because of concerns about balancing the budget and in part because of increasing interest in the philosophy that ageism is as unconscionable a form of discrimination as racism or sexism. Many feel that the elimination of mandatory retirement would contribute to the economic well-being of the United States, generating some $3 billion in the first year alone, because nearly 195,000 older workers who would otherwise be retired would be contributing to their own economic support, as well as to the Treasury and Social Security funds.

There are no less than 10 bills concerning mandatory retirement now pending in the House. Among these are Chairman Pepper's bill to remove the maximum age limitation applicable to employees who are protected under the ADEA (H.R. 4154); Aging Committee Chairman Edward R. Roybal's bill (H.R. 1710) to remove mandatory retirement ages for a broad range of civil servants, including U.S. Park Police, air traffic controllers, Federal Bureau of Investigation personnel and Department of Justice law enforcement personnel, Tax Court judges, and Foreign Service officers; Congressman Robert Matsui's bill (H.R. 1736) to eliminate the mandatory retirement age for Tax Court judges; Congressman Mervyn Dymally's bills (H.R. 3370, H.R. 3560, H.R. 3578 and H.R. 3592) to extend the mandatory retirement age of judges in District of Columbia courts to age 74 (from age 70); and Congressman Benjamin Gilman's measure (H.R. 3911) to raise the mandatory retirement age of law enforcement officers engaged in detention activities from 55 to 65 years.

The sole Senate bill on mandatory retirement was introduced by Senator Alan Cranston. This bill eliminates the upper age limitation (70 years of age) of the class of persons to whom the Age Discrimination in Employment Act applies. It would also prohibit any reinstatement of ADEA exemptions for tenured university faculty and eliminate the existing exemption for executives or high policy-making employees in private industry.

HISTORICAL OVERVIEW OF MANDATORY RETIREMENT

Forced retirement still persists, despite growing evidence that age is a poor indicator of job performance. According to the Department of Labor, a majority of all older non-federal workers in the United States face a mandatory retirement age. In most cases the mandatory retirement age is set at 70 since the federal Age Discrimination in

Employment Act (ADEA) protects workers against such practices until age 70.

Prior to 1978, most employers had established a mandatory retirement age of 65. This age had no special significance other than its coincidence with the age at which workers are entitled to their full Social Security benefits.

In 1978, the ADEA was amended to eliminate mandatory retirement for nearly all Federal workers and to increase to 70 the age at which non-Federal workers could be forcibly retired. The age of 70 was as arbitrary as age 65, and was agreed to as a compromise until the Labor Department was able to conduct a study of the impact of eliminating mandatory retirement altogether.

The 97th Congress showed renewed and vigorous interest in the issue of older workers, in part because of concerns about the financing problems of Social Security. During that session, 16 bills were introduced on the topic of mandatory retirement -- 11 in the House and five in the Senate. One of these was H.R. 6576, Congressman Pepper's proposal to remove the age 70 cap for private sector employees. This 1983 version of the legislation had the same thrust as Pepper's current bill to remove the mandatory retirement age (H.R. 4154), and enjoyed the support of 182 Members of the House before it died at the end of the session.

In subsequent years, increasing concern over rising deficits and lingering concern over the solvency of Social Security have generated strong bipartisan sentiment in favor of removing all obstacles to employment of older Americans. Such action is thought not only to be a way of improving conditions for older Americans, but for bolstering the coffers of the U.S. Treasury and the Social Security trust funds. During the 98th Congress, 16 pieces of legislation were introduced -- nine in the House and seven in the Senate.

More than seven years have passed since the 1978 Amendments to the ADEA. The Labor Department study mandated by those amendments was published in 1982, and supported the complete elimination of mandatory retirement, noting that this occurrence would result in a further increase in the labor force of approximately 200,000 elderly persons by the year 2000. While that might have seemed of marginal importance in the overall labor force, the study noted, the change would be of immeasurable benefit to those thousands of employees who want to remain employed. With that study, which stated that raising the permissible mandatory retirement age of 70 had no significant negative impact and that eliminating retirement would likewise cause no major problems. The way appeared cleared for Congress to remove the most visible symbol of age discrimination in the workplace.

STATES THAT HAVE ELIMINATED MANDATORY RETIREMENT

To date, thirteen States have enacted statutes specifically banning mandatory retirement for public and private sector employees (with exceptions). These States are: California, Florida, Georgia, Hawaii, Iowa, Maine, Massachusetts, Montana, New Hampshire, New Jersey, New York, Tennessee and Wisconsin. All but three of these States impose this ban on all employers. In addition, Alaska, Nevada, New Mexico, North Carolina, North Dakota and Vermont have abolished mandatory retirement contingent upon court interpretation of age discrimination statutes.

Nineteen other States have age discrimination laws that protect employees' right to work until age 70. These are Arkansas, Delaware, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Nebraska, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Washington, and West Virginia. However, 10 of those have a lower mandatory retirement age for public sector employees.

Five other States that have a mandatory retirement policy for public employees have an uncapped age discrimination protection statute for the private sector. They are Arizona, Colorado, Connecticut, Maryland and Michigan.

TABLE I
STATE MANDATORY RETIREMENT LAWS: 1986

	Public sector			Private Sector				
	Generally prohibits mandatory retirement	Notable exceptions	Upper age limit for mandatory retirement	Generally prohibits mandatory retirement	Notable exceptions	Upper age limit for mandatory retirement	Prohibits mandatory retirement	Upper age limit, if any
Alabama	--	--	70*	--	--	--	--	None
Alaska	--	--	--	--	--	--	Yes	None
Arizona	--	--	70	--	--	--	Yes	None
Arkansas	--	--	70	--	--	--	Yes	70
California	Yes	1	--	Yes	--	--	Yes	None
Colorado	--	--	70*	--	--	--	Yes[o]	None
Connecticut	--	--	70*	--	--	--	Yes	None
Delaware	--	--	70*	--	--	--	Yes	70
Florida	Yes	2	--	Yes	--	--	Yes[o]	None
Georgia	Yes**	1	--	--	--	--	Yes	70
Hawaii	Yes	--	--	Yes	--	--	Yes	None
Idaho	--	5	--	--	--	--	Yes	70
Illinois	--	5	--	--	--	--	Yes	70
Indiana	--	5	--	--	--	--	Yes	70
Iowa	Yes	--	--	--	--	4	--	Yes
Kansas	--	--	--	--	--	--	Yes	70
Kentucky	--	--	65	--	--	--	Yes	70
Louisiana	--	--	70*	--	--	--	Yes	70
Maine	Yes	--	--	Yes	--	--	Yes	None
Maryland	--	--	70	--	--	--	Yes	None
Massachusetts	Yes	--	--	Yes	--	--	Yes	None
Michigan	--	--	70*	--	--	--	Yes	None
Minnesota	--	--	70*	--	--	--	Yes	70
Mississippi	--	--	70*	--	--	--	--	None
Missouri	--	--	70***	--	--	--	--	None
Montana	****	--	****	--	--	--	Yes	None
Nebraska	--	--	70	--	--	--	Yes	70
Nevada	--	--	--	--	--	--	Yes	70
New Hampshire	Yes	--	--	Yes	--	--	Yes	None
New Jersey	Yes	--	--	Yes	--	--	Yes	None
New Mexico	--	--	--	--	--	--	Yes[oo]	None
New York	Yes	1	--	Yes	--	--	Yes[oo]	None
North Carolina	--	--	--	--	--	--	Yes	70
North Dakota	--	--	--	--	--	--	Yes	70
Ohio	--	--	70	--	--	--	Yes	70
Oklahoma	--	5	--	--	--	--	--	None
Oregon	--	--	70	--	--	--	Yes	70
Pennsylvania	--	--	--	--	--	--	Yes	70
Rhode Island	--	--	70	--	--	--	Yes	70
South Carolina	--	--	70*	--	--	--	Yes	70
South Dakota	--	--	--	--	--	--	Yes[o]	70
Tennessee	Yes	3	--	--	--	--	Yes	70
Texas	--	5	--	--	--	--	Yes	70
Utah	--	--	--	--	--	--	Yes	70
Vermont	--	--	--	--	--	--	Yes	None
Virginia	--	--	70*	--	--	--	--	None
Washington	--	4	--	--	--	--	Yes	70
West Virginia	--	--	70*	--	--	--	Yes	65
Wisconsin	Yes	--	--	Yes	--	--	Yes	None
Wyoming	--	--	65*	--	--	--	--	None

NOTABLE EXCEPTIONS:

[1]Lower for certain public safety personnel (firefighters, police and other law enforcement personnel.
[2]Protects State employees only to age 65.
[3]Has a variety of exceptions.
[4]70 is the earliest compulsory retirement age that can be set.
[5]No general mandatory retirement, but has for specific classes of workers.

•Denotes lower age for certain public safety personnel.
••Municipalities may set a mandatory retirement age.
•••A variety of ages, depending on municipality size.
••••The State Supreme Court has interpreted age discrimination statutes to prohibit mandatory retirement.
•••••In some States, the courts could decide that State age discrimination statutes prohibit mandatory retirement.

oOnly in State employment.
ooHas broad exemptions.

NUMBER OF WORKERS AFFECTED BY MANDATORY RETIREMENT

Labor Department data indicate that 51 percent of workers age 40 to 69 face a retirement age, usually 70. Thus, more than 20 million workers could be forced to retire simply because of their age. Most of these workers, however, will leave the labor force before they reach the mandatory retirement age, which means that many fewer workers are directly affected by such policies. If mandatory retirement were abolished, according to the most recent Labor Department statistics available, an estimated 195,100 more older men (no estimates were made of the number of women) would be in the labor force in the years 2000 than if mandatory retirement policies remained as they are today.

Mandatory retirement policies are implemented at the whim of employers and tend to be most prevalent among larger firms. A 1981 study of 1,600 firms by Portland State University found that only 7 percent of small firms (20-49 employees) had a mandatory retirement age, compared to 60 percent of large firms (500 or more employees).

A 1984 survey of 363 companies by The Conference Board, an economic and management research organization, confirmed this finding. According to the results of that study, although mandatory retirement has been rescinded entirely in many large companies, it is still more prevalent among the largest firms (those with 25,000 or more employees), where 79 percent of the companies had mandatory retirement.

The Conference Board report revealed that three-fifths of companies surveyed have mandatory retirement at age 70, but that 40 percent of these respondents indicated that there were exceptions to this policy. The exceptions fell mainly into two categories: (1) employees who live in states that have eliminated mandatory retirement entirely; and (2) mandatory retirement was at age 65 for those high-level executives with lifetime pensions of at least $44,000 annually. (The 1978 Amendments to the Age Discrimination in Employment Act permit mandatory retirement at age 65 for that classification of employees.)

Interestingly, while the survey revealed that the vast majority of corporations responding continue to encourage early retirement, the decline in labor-force participation rates of people aged 60 or more has slowed considerably in recent years. This change comes after a dramatic quarter-of-a-century decline in such participation.

The presence of a mandatory retirement policy contributes indirectly to earlier retirement even before age 70. The Labor Department found that workers with no mandatory retirement age planned to retire on average at age 64, compared to age 62 for those with a mandatory retirement age. Thus, the presence of a mandatory retirement policy may provide a signal to older workers that they should shorten their worklives. Another explanation for the early retirement tendency among workers facing mandatory retirement is that larger firms are more likely to have both mandatory retirement and better pension plans with lucrative early retirement inducements.

Relatively few older workers are actually mandatorily retired because financial inducements, poor health or societal expectations cause most workers to retire early, that is, before age 65. For example, 70 percent of all new Social Security beneficiaries leave the labor force and begin collecting their benefits before age 65. Additionally, the Labor Department study on mandatory retirement found that only 6 percent of older workers had co-workers who had retired after age 65.

PUBLIC ATTITUDES ABOUT MANDATORY RETIREMENT

According to a 1981 Harris poll, nine out of 10 Americans agreed that "nobody should be forced to retire because of age, if he/she wants to continue working and is still able to do a good job." A check of the literature by the Subcommittee reveals that sentiment against mandatory retirement remains strong and it is not limited only to older people. Americans of all ages are equally likely to oppose such discriminatory policies.

On February 10, 1985, renowned economist John Kenneth Galbraith addressed the issue of mandatory retirement in an article entitled, "When Work Isn't Work," in Parade magazine. In his piece, Mr. Galbraith made several important points:

(1) There is no fixed limit on the number of employable men and women in the economy;

(2) We should not accept the common argument that retirement is necessary to make room for younger newcomers;

(3) Nothing is more certain than that the disabilities of age come with great irregularity as between different individuals; and therefore

(4) A set retirement age is really a way of avoiding difficult individual judgments by imposing a harsh arbitrary rule on all.

Mr. Galbraith also looked at different kinds of work: "real work," or the "hard, tedious, physically or mentally debilitating thing;" and "enjoyed work," or "that kind of activity one would willingly do without pay," and "that is meaningful and personally self-fulfilling."

For our really important jobs, including those of legislators, judges, high-level business executives, and the President of the United States, Galbraith notes, we reject the idea of a fixed retirement. The same is true for artists, scientists, other scholars, and politicians. Yet, those who perform "real work" -- picking fruits and vegetables, cleaning streets, staffing a sweatshop, for example -- should be given the reward for real work, which is the opportunity to retire at a relatively early age, "almost certainly by the late 50s," Galbraith posited.

In response to Galbraith's article, Congressman Claude Pepper, Chairman of the Subcommittee on Health and Long-Term Care, the address of which was listed at its conclusion, was deluged with mail. The nearly 1,000 letters from all over the country revealed a spectrum of experiences with retirement, and many letters from persons nowhere near retirement age, who merely wanted to share their views. Most, however, were from older Americans who either had already retired or were anticipating retirement in the near future.

The overwhelming majority of these letters favored the elimination of mandatory retirement. The quotations below, reflections on the effects of retirement upon the individual, are culled from that mail:

-- "Workers should not be forced to retire because of age, but that each individual who has the mental and physical capacities should be allowed to participate in the work force with honor and dignity," wrote a student of social welfare at New Orleans' Southern University.

-- A young woman from Alexandria, Virginia, wrote, "I am just out of law school and very far from thinking seriously about retirement. But Professor Galbraith's article is so disconcerting that it prompted me to write this, my first letter to a Congressman. I think his ideas are very sound and deserve your Committee's immediate and active attention."

-- One gentleman wanted Congressman Pepper to know, "The young may be our greatest national resource, but the senior members of our society are the foundation. From their experiences comes (sic) real wisdom."

-- "I believe that we should not have a set retirement age. Many of the older people in our country still have so much they can give and want to give. We should welcome with open arms anyone who wants to work for as long as h/she can and is able," contributed a Greenville, South Carolina woman.

-- A woman who is a psychiatrist in Jackson, Mississippi, wrote, "With a healthy aging population, serious financial problems with social security and Medicare reimbursement, it seems to me that enforced retirement is positively ridiculous, and that retirement should be based, as he (Galbraith) points out, on productivity and the personal satisfactions associated with work, as well as the likelihood of relative productivity based on these factors as aging occurs."

-- A writer from Virginia had this enthusiastic message: "On behalf of my 84 year old mother and myself, I wish to voice our opinions in response to Parade magazine article on February 10, 1985. Please add our votes to the affirmative on Prof. Galbraith's recommendations. Yes! Yes! Yes!"

Even as mail received by the Subcommittee showed strong opposition to the concept of mandatory retirement, it is also true that an ever-increasing number of employers share that sentiment.

In a 1981 nationwide survey of employer attitudes, 51% of employers agreed that "mandatory retirement should be abolished by the end of this decade." Since that time, employment agencies that deal specifically with the placement of older workers have become more common, partly to aid the workers themselves but also to meet a growing demand for the experience and skills of older workers. One such agency, Operation Able

in Chicago, states, "The graying of America means that employers who wish to keep their business expanding will have to employ older workers, because there will not be enough younger workers to go around. So it is in the best interest of the business community to begin now to find ways to utilize older workers. They can be valuable partners in working toward your company's objectives, from short-term crisis management to long-term strategic planning."

More and more employers are taking note of the experience, skills, reliability and flexibility that older workers bring to a position, as the following examples illustrate:

-- A Lockheed Corporation branch office in California needed experienced workers to fill selected job slots, but was unable to get the ones they needed due to an acute labor shortage. They surveyed 4,000 of their recent retirees and found that more than 25% wanted to return to work. After instituting a crash hiring program to utilize these valuable workers, this company is now looking into rehiring retired engineers to alleviate a similar labor shortage.

-- Wave III, a New York-based corporation, grew weary of training computer programmers, only to have them accept a better job somewhere else. By training older persons (the first training class had an average age of 64), the company now has a reliable pool of programmers with wide flexibility of workload and hours. The program will soon be expanded.

-- John Deere Company considers its older workers such a valuable resource that it permits them to work 20-80% of the full-time work week, and to draw on a portion of their pension benefits to make up the difference in salary.

-- The Travelers Insurance Companies of Hartford, Connecticut, created its own job bank for retired employees, listing the temporary positions available with the company. Employees can work almost half-time with no loss in their retirement income from the company.

-- Continental Bank hired nearly 100 older persons to work in a check processing center where they previously had been plagued by a very high employee turnover rate in the 24-hour-a-day work environment. Since then, supervisors in other divisions have requested the placement of older workers in their units, because the seniors provide good role models and they have stabilized the round-the-clock work force.

Although the above examples point to solutions to the problem of forced retirement, and are a testimonial to the value of older workers, they should by no means be seen as the only solution. As former U.S. Senator Charles H. Percy of Illinois observed in 1982, there are several aspects to permitting all persons of all ages to continue working and feeling useful:

> Our goal is to insure that any person who wants to work is not denied that opportunity because of his or her age. To reach this goal we must adopt a comprehensive approach designed to promote opportunities for older workers. Ending mandatory retirement is the logical place to begin. It will signal our intention to eliminate all barriers to the full participation of older workers. Employment should and must be an option for all ages.

THE IMPACT OF MANDATORY RETIREMENT ON THE INDIVIDUAL

Transition and loss, the two most devastating type of life adjustments, are curiously those for which the American individual receives the least preparation. Forced to rely suddenly on inner resources, the average person is not adequately prepared to successfully respond to forced changes in his or her lifestyle. Mandatory retirement is the forced termination of an individual's role, and represents the loss not only of that role, but of responses, purpose, and income.

Although some workers look forward to retirement, the majority do not, especially those who still need a regular income. For these people, many with work histories of 40 or 50 years, retirement is deemed one of the 8 most stressful life events.

For those elderly who desire to work, unemployment creates serious problems. Older workers who lose their jobs stay unemployed longer than younger workers, suffer a greater earnings loss, and are more likely to give up looking for another job than those in other age groups.

Recent American studies show that the individual benefits more from activity, both physical and mental, than inactivity, and from useful work more than empty leisure. A survey performed several years ago established that work contributes to a sense of physical and material well-being, giving workers a feeling of usefulness.

Mandatory retirement costs the United States very much. Besides being a drag on the economy, removing from the workforce persons who could be contributing to their own economic support as well as to the U.S. Treasury and to Social Security funds, it wastes human potential. The quotations below are again taken from mail received by the Subcommittee on Health and Long-Term Care in response to a Parade magazine article by John Kenneth Galbraith, published February 10, 1985.

The Economic Effects of Retirement:

-- A senior citizen from Houston, Texas, wrote, "In my case it is absolutel, necessary that I continue to earn until age 78. I began to earn my living at 56 and must continue to 78 to have enough money for the rest of my life expenses. It would relieve me greatly if I could know that I didn't have to scrounge for work after forced retirement in 1986 from the University of Texas where I now work."

-- "I have no quarrel with those who wish to retire at 65, or even earlier if they so desire. However, I strongly feel those like myself should have not only the legal opportunity, but also some incentive to continue active employment as long as we desire." The author is a 64-year-old man from Neenah, Wisconsin.

The Emotional Effects of Retirement:

-- A man from Palos Verdes Estates, California, told of the pleasure he derived from work. "I am 69 years old and I have a good job as an aerospace engineer which I enjoy. I believe I am making a useful contribution to our society. I don't want to retire at 70."

-- An 82-year-old woman who works as a social secretary for two New York City women writes, "Mr. Galbraith is right -- a person should not stop working as long as God give him or her good health. It does keep one young to have something to do."

-- A 44-year-old man from Lompoc, California, relates the different roles work plays in people's lives, and the value of a meaningful vocation. "I am a 44 year old ironworker that has suffered numerous physical injuries over the past 25 years but I must endure 21 more years to qualify for my union's pension and social security. By contrast, an acquaintance of mine is an 80 year old engineer who was forced to leave his job 15 years ago. Another company was waiting in the wings to tap his reservoir of experience and he is still very actively working for them. If he were forced to shut down his mind even now, much less at 65, it would be his death warrant."

-- Another California resident writes, "I think the government should consider this (the Galbraith article). I myself am 88 years old and am still working 2 days at my trade as shoe salesman, which started 55 years ago and still like it. There should be no age limit in this matter." Then a personal message to Congressman Pepper, "Do something about it, Claude!!!"

The Physical Effects of Retirement:

-- "Our mind and body work together in miraculous ways and if we cut off the activites of one, we curtail the other," contributed a 57-year-old Louisiana woman.

-- One respondent contributed a short phrase packed with meaning: "When a man retires, he expires."

-- A 31-year-old Oregon woman told the moving story of her grandmother, who was forced to retire at age 65. By the age of 75, she had undergone extensive treatment for a ten-year illness for which physicians can find no physical cause. The granddaughter observed, "This woman, had she not been cast aside from the stream of productivity into an unwanted life of leisure, would have had much to offer her world."

THE IMPACT OF UNCAPPING THE ADEA

On older workers:

Uncapping the Age Discrimination in Employment Act (ADEA) would add approximately 840,000 workers age 70 and over to the 28 million workers (aged 40-70) now covered by the Act. This would be a three percent increase in the number of individuals protected against age discrimination in employment.

Of course, not all persons whom the law would permit to enter or remain in the workforce would choose to do so. According to Labor Department statistics, eliminating mandatory retirement would result in 195,100 more older men in the labor force by the end of the decade. Almost half (90,300) would be in the 68-70 age group. Thus, eliminating mandatory retirement has an effect on workers who have not yet reached the compulsory retirement age.

On the economy:

Increasing the labor force participation rates of older workers would have a beneficial effect on the economy, Social Security and government revenues. According to a 1985 study by Mercer-Meitinger, an actuarial firm, approximately $800 million is generated in savings for every 50,000 older workers retained in the workforce. It follows, then, that over $3 billion in revenue would be gained by the elimination of mandatory retirement.

On business:

The Labor Department's studies indicate that business adapted quite easily to the 1978 ADEA amendments raising the permissible mandatory retirement age from 65 to 70. These same studies conclude that eliminating mandatory retirement altogether would have no greater impact on people remaining in the workforce than raising the age to 70. More importantly, many employers believe costs are lower for older workers. One third of older workers in larger firms have employers who believe costs will decrease if older workers remain on the job.

On women, minorities and youth:

The Labor Department found that the rise in permissible mandatory retirement age to 70 resulted in only negligible effects on women, minorites and youth, and that abolishing mandatory retirement would have a similarly minimal impact. According to the Labor Department, "The estimated additional number of comparable age-65 workers are potential competition for less than one-quarter of one percent of all full-time workers ages 16-19; less than one-half of one percent of all full-time black workers ages 16-59; and around one-tenth of one percent of all full-time female workers ages 16-59."

On opportunities for promotion:

Again, the Labor Department studies refute the idea that an increased number of older workers would significantly delay promotions for younger workers. One study reports that a ten percent increase in the labor force participation rates of men age 65+ (twice the projected impact of eliminating mandatory retirement) would delay, on average, promotions at the highest ranks by only one-half year, while at the lower ranks individual promotions would be retarded by approximately five to ten weeks. These are insignificant effects, especially when weighed against the harmful consequences of forced retirement based on age.

SUMMARY

Under current law, mandatory retirement policies apply to more than half of America's older labor force. Public opinion is clearly opposed to such policies, 12 States have already abolished mandatory retirement, a significant percentage of prominent American companies have no mandatory retirement age, and there is growing bipartisan support in Congress to enact legislation ending age bias in the workplace.

Mandatory retirement has been shown to have devastating effects on individuals' mental and physical health, and spells severe economic loss for many older people who cannot afford retirement. Abolishing mandatory retirement would increase the labor force by 195,100 by the year 2000, would add needed revenue to the U.S. Treasury and to Social Security, would not adversely affect business, and would create no significant additional hardship for younger workers, women or minorities.

Many experts consider the removal of the upper age limit of 70 from the ADEA the most effective way to abolish mandatory retirement. This action, which could be accomplished with passage of Congressman Claude Pepper's bill, H.R. 4154, would stamp out once and for all the fires of age discrimination. Such an action would offer a new hope to older workers who are desperate to maintain their independence and dignity. Evidence from many sources points to the need to act swiftly to eradicate the remaining vestiges of age bias in the workplace. Just as race and sex are no indicators of competence or employability, so should age never be used as a determinant of one's worth.

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APPENDIX
CONGRESSMAN PEPPER'S BILL TO ELIMINATE MANDATORY RETIREMENT

99TH CONGRESS
2D SESSION

H. R. 4154

To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 1986

Mr. PEPPER (for himself, Mr. HAWKINS, Mr. JEFFORDS, Mr. MARTINEZ, Mr. GUNDERSON, Mr. ROYBAL, Mr. RINALDO, Mr. BIAGGI, Ms. SNOWE, Mr. BONKER, Mr. TAUKE, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Education and Labor

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A BILL

To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".

SEC. 2. AMENDMENTS TO ACT.

(a) COVERAGE UNDER GROUP HEALTH PLANS.—Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the TAX Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".

(b) TECHNICAL AMENDMENT.—Subsection (g) of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" and inserting in lieu thereof "(h)(1)".

(c) REMOVAL OF MAXIMUM AGE LIMITATION.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended—

(1) in subsection (a) by striking out "but less than seventy years of age", and

(2) in subsection (c)(1) by striking out "but not seventy years of age,".

SEC. 3. EFFECTIVE DATE AND APPLICATION OF AMENDMENTS.

This Act and the amendments made by section 2 of this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement—

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,

such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.

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